

**Amendments to the Drawings:**

The attached six (6) replacement drawing sheets include formal versions of Figures 1-6 in response to the drawing objections on page 2 of the Office Action. These sheets replace the original six (6) drawings sheets including original Figures 1-6. No new matter has been added.

Attachment: Six Replacement Sheets (Figures 1-6)

### **REMARKS/ ARGUMENTS**

The non-final Office Action of April 28, 2010, has been reviewed and these remarks are responsive thereto. The Drawings have been amended and six replacement drawing sheets are submitted herewith. No claims have been added, no claims have been canceled, and no claims have been amended. No new matter has been introduced. Claims 1-4, 10-13, 19-22, and 25-40 remain pending in this application. Reconsideration and allowance of the instant application are respectfully requested.

#### ***Allowable Subject Matter***

Applicants acknowledge with appreciation the indication that the application contains allowable subject matter. Specifically, claims 29 and 34 were deemed allowable if rewritten in independent form to incorporate all the features of their respective base claims and any intervening claims. These claims have not been rewritten in independent form, however, for reasons explained in more detail below, Applicants believe that these claims remain allowable and that the additional pending claims are allowable as well.

#### ***Drawing Objections***

The Office Action on page 2 states that the “drawings are not of sufficient quality to permit examination.” Applicants believe this objection was made in error. The use of the form paragraph reproduced by the Office Action, M.P.E.P, Form Paragraph 6.26, should be “extremely rare and limited to those instances where no examination can be performed due to the poor quality of the drawings resulting in a lack of understand of the claimed subject matter.” M.P.E.P § 608.02(b)II. However, the claims of the instant application were examined in this Office Action and in several previous Office Actions. Thus, the drawings are clearly of sufficient quality to permit examination.

Applicants believe that the Office intended to simply object to the drawings as unacceptable and to require corrected drawings (M.P.E.P. § 6.08.02(b)), and Applicants have responded as such. Although the Office did not provide any reasons why the drawings are allegedly unacceptable, Applicants submit herewith six (6) replacement sheets of drawings including formal versions of Figures 1-6. Applicants contend that the replacement drawings are

acceptable under 37 C.F.R. § 1.84 and respectfully request withdrawal of the drawing objections. Should the Examiner contend that the replacement drawings are not acceptable, Applicants respectfully request consultation with Applicants' undersigned counsel.

***Rejections Under 35 U.S.C. § 103***

Claims 1-4, 10-13, 19-22 and 25-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Appl. Pub. No. 2001/0005905 (now U.S. Patent No. 6,505,346) (Saib), in view of U.S. Patent No. 6,507,306 (Griesau). Claims 28, 33, and 38-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saib, in view of U.S. Patent No. 7,181,027 (Shaffer). Claims 30 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saib, in view of Shaffer, and further in view of Griesau. Claims 31 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saib, in view of Shaffer, and further in view of U.S. Patent No. 5,844,620 (Coleman). Claims 32 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saib, in view of Shaffer, and further in view of U.S. Patent No. 6,757,906 (Look). Applicants respectfully traverse these rejections.

**Rejections of Claims 1, 10, and 19**

Independent claims 1, 10, and 19 each relate to a channel selection button used to perform one of a plurality of functions based upon a depression duration of a channel selection button corresponding to a number button (0-9). Specifically, claims 1, 10, and 19 each recite, *inter alia*:

receiving [an] indication of a depression of a channel selection button, wherein the channel selection button corresponds to a number button (0-9);

evaluating a depression duration of the channel selection button; and

performing one of a plurality of functions associated with the channel selection button, wherein the function performed is based upon the depression duration.

The Office alleges that a combination of Saib and Griesau renders obvious claims 1, 10, and 19. However, neither Saib, nor Griesau, alone or in combination, teaches or suggests evaluating a depression duration of a channel selection button corresponding to a number button (0-9), or

performing one of a plurality of different functions based on the depression duration of a channel selection button corresponding to a number button (0-9). Accordingly, claims 1, 10, and 19 are not obvious over the cited references.

With respect to Saib, the Office Action at page 3 alleges that Saib discloses a channel selection button in the form of the “Jump Key” described at FIG. 3, step 302. However, Saib’s Jump Key is a single key that causes the tuner to cycle through a loop of stations. (Col. 5, ll. 23-57). Saib’s Jump Key is not a channel selection button corresponding to a number button (0-9) as claimed, and the Office Action acknowledges on page 4 that Saib does not disclose a performing a function based on the depression duration of a number button.

Thus, the Office Action alleges on page 4 that Griesau, col. 5, lines 25-45, cures the deficiencies of the Saib with respect to the claim limitations discussed above. However, Griesau also fails to teach or suggest evaluating a depression duration of a channel selection button corresponding to a number button (0-9), or performing one of a plurality of different functions based on the depression duration of a channel selection button corresponding to a number button (0-9). The relied-upon section of Griesau only describes user-programmable mode buttons (i.e., the “CABLE,” “TV,” “VIDEO,” and “AUDIO” buttons) that can be programmed to perform multiple different functions. (Col. 5, ll. 25-31; FIG. 1). However, Griesau’s user-programmable mode buttons are not “channel selection button[s] corresponding to a number button (0-9),” as recited in claims 1, 10, and 19. Furthermore, Griesau never discloses evaluating a depression duration for any button, or performing one of a plurality of different functions based on the depression duration. Rather, the multiple functions performed by Griesau’s mode buttons are performed simultaneously in response to a single button press, without any regard to the depression duration of the button. (Col. 5, ll. 39-45). Thus, Griesau does nothing to cure the above-discussed deficiencies of Saib.

Since neither cited reference teaches or suggests evaluating a depression duration of a channel selection button corresponding to a number button (0-9), or performing one of a plurality of different functions based on the depression duration of a channel selection button corresponding to a number button (0-9), the Office Action then alleges, “a person of ordinary skill in the art would have had good reason to pursue the known options of programming existing generic buttons such as numeric keys to provide extra functions with major modifications of the

existing design to save time and cost.” Notwithstanding this conclusory statement, the Office Action provides no explicit reasoning why the additional recited features, which are not taught or suggested by either Saib or Griesau, would have been obvious, and does not identify any portion of either reference that suggests the proposed modification. Clearly, the Office Action is engaging in impermissible hindsight by simply reciting benefits of the Applicants’ own invention.

The distinctions are significant between Saib’s “Jump” button and Griesau’s programmable mode buttons, and performing a function based on a depression duration of a channel selection button corresponding to a number button (0-9), as recited claims 1, 10, and 19. The instant specification discusses several different embodiments and specific advantages in performing one of a plurality of functions based upon the depression duration of a channel selection number button (0-9) (e.g., one duration for the channel number, another duration to run a numbered program, another duration to update that numbered program, another duration to clear and reset that program number, etc.) See, e.g., FIG. 5, paras. 26-27. These examples and others discussed in the instant specification are not disclosed and would not be possible using the single Jump Key described in Saib and/or the user-programmable mode buttons of Griesau.

For at least these reasons, claims 1, 10, and 19 are not obvious over Saib in view of Griesau. Dependent claims 2-4, 11-13, 20-22, and 25-27 are not obvious for at least the same reasons as claims 1, 10, or 19, as well as based on the additional features recited therein.

### **Rejections of Claims 28, 33, and 38**

Claims 28, 33, and 38 each recite, *inter alia*, “classifying the depression duration into one of three or more ranges,” wherein each depression duration range is associated with a separate function on a multimedia presentation device controller (emphasis added). The Office Action correctly acknowledges on page 5 that Saib does not disclose a third depression range associated with a third function on a device controller. However, the Office Action then alleges that Shaffer teaches three duration ranges associated with three functions at FIG. 4 and col. 8, lines 59-64. Applicants disagree. First, the alleged duration ranges of Shaffer are not “depression duration” ranges as recited in claims 28, 33, and 38. Rather, Shaffer’s duration ranges relate to the amount of time that audio input is being detected at a microphone. (FIG. 4, col. 9, line 51 – col. 10, line

46) Secondly, none of the alleged functions performed by Shaffer is a “function on [a] multimedia presentation device controller,” as recited by claims 28, 33, and 38. In fact, Shaffer does not disclose or relate to multimedia device controllers at all, but describes a noise suppression technique for use in communication systems. (Abstract) Furthermore, it is not clear that there is even an alleged “third function” performed by Shaffer at all. As shown in FIG. 4 of Schaffer, regardless of the duration of the speech input at the microphone, a timer is initialized, a beginning notification is sent, and an ending notification is sent. Although multiple durations are described in relation to system performance, Shaffer does not disclose an alleged “third function” that is performed based on a third duration range. Accordingly, for at least these reasons, claims 28, 33, and 38 are not obvious over Saib in view of Shaffer. Dependent claims 29-32, 34-37, and 39-40 are not obvious over the cited references for the same reasons as claims 28, 33, and 38, as well as based on the additional features recited therein. The addition of either Coleman or Look fails to cure the deficiencies of the above-cited references. Accordingly, Applicants request withdrawal of these rejections.

### **CONCLUSION**

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants’ undersigned representative at the below-listed number.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated this 30<sup>th</sup> day of August, 2010

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